

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 10-3100 JH
CV 12-0874 JH/LAM

EDWARD BUSSIE,

Defendant.

MEMORANDUM OPINION AND ORDER

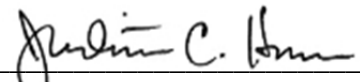
This matter is before the Court on Defendant's Motion for Pretrial Detention to be Credited to Time Served (CR Doc. 87; CV Doc. 30) filed on August 24, 2015. Defendant seeks an order crediting his sentence for time he spent in pretrial custody. The Court will deny the motion.

First, this Court "does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization." *United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997) (citing *United States v. Blackwell*, 81 F.3d 945, 947-48, 949 (10th Cir. 1996)); 18 U.S.C. § 3582(c). No such statutory authority is presented in Defendant's motion.

Second, even if the Court were to grant credit for prior custody against Defendant's term of imprisonment, his post-conviction custodian--the Attorney General or Bureau of Prisons ("BOP")--would not be bound by the calculation. The Attorney General, through the BOP, has the responsibility of administering a federal sentence, including computation of credit for pretrial incarceration. *See United States v. Jenkins*, 38 F.3d 1143, 1144 (10th Cir. 1994) ("only the Attorney General through the Bureau of Prisons has the power to grant sentence credit") (citing *United States v. Wilson*, 503 U.S. 329, 333, 337 (1992)). The district court in the district where Defendant is confined has jurisdiction under 28 U.S.C. § 2241 to review the computation of his sentence, after exhaustion of the BOP's administrative remedies. *See Wilson*, 503 U.S. at 335-36;

Bennett v. United States Parole Comm'n, 83 F.3d 324, 328 (10th Cir. 1996). Because the requested credit cannot be effectively granted, the motion will be denied.

IT IS THEREFORE ORDERED that Defendant's Motion for Pretrial Detention to be Credited to Time Served (CR Doc. 87; CV Doc. 30) filed on August 24, 2015, is DENIED.


UNITED STATES DISTRICT JUDGE